

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ENVIROCON, INC.,

Plaintiff,

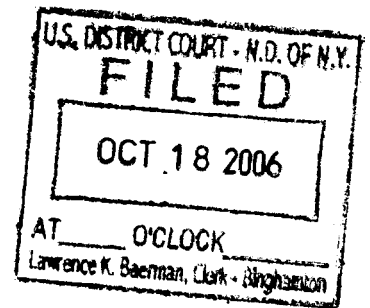
7:06 CV 0549

v.

ALCOA, INC., CDM and CURRAN  
LOGGING, INC.,

Defendants.  
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THOMAS J. McAVOY  
Senior United States District Judge



**ORDER**

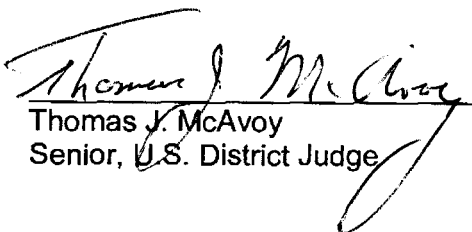
Plaintiff, Envirocon, Inc., commenced the instant action asserting various state law claims arising out of its construction of a landfill cell at Defendant Alcoa's facility in Massena, New York. Defendant, Camp Dresser & McKee ("CDM"), filed a motion pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss the complaint against it.

IT IS HEREBY ORDERED that Defendant CDM's motion to dismiss is GRANTED IN PART and DENIED IN PART. The motion to dismiss the claim for punitive damages is GRANTED for the reasons set forth in the Decision and Order to Alcoa's motion to dismiss, filed on August 23, 2006. The motion to dismiss the other claims against CDM is DENIED. This Court finds that with respect to the negligence

*the Complaint states a claim upon which relief can be granted on the issue of*  
claims, ~~an issue of fact exists as to~~ whether Envirocon and CDM had a relationship  
so close as to approach that of privity.

SO ORDERED

Dated: October 18, 2006

  
Thomas J. McAvoy  
Senior, U.S. District Judge